

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

The Freedom From Religion
Foundation, *et al.*
Plaintiffs

v.

The United States Congress, *et al.*
Defendants

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Civil Action No. 07-cv-356-SM

STATE OF NEW HAMPSHIRE'S MOTION TO
EXCEED PAGE LIMIT

NOW COMES the STATE, by and through their counsel, the Office of the Attorney General, and requests permission to exceed the 25-page limit for Legal Memoranda for the State's memorandum of law in support of its motion to dismiss, stating as follows:

1. As discussed in the agreed upon scheduling order filed by the federal defendants, the response to the complaint is due on January 18, 2008, including the State's motion to intervene and any motion to dismiss.
2. The memorandum of law in support of the motion to dismiss that State has drafted is approximately 39 pages long, excluding the table of contents and table of authorities provide for the court's convenience.
3. Local Rule 7.1(3) establishes a 25-page limit for legal memoranda filed in support of dispositive motions.

4. This case concerns the constitutionality of the State's requirement that public school children be provided the daily opportunity to recite the Pledge of Allegiance to the flag. This vitally important patriotic practice is deserving of the most thorough briefing, as it goes to the core values of our society. The challenge to the words, "one Nation under God" requires examination of the historical roots of our nation and state spanning almost 400 years of history. As a result, it was not possible to address all of the various legal issues within the 25-page limit.

5. The purpose of the federal rules of civil procedure is to secure the "just, speedy, and inexpensive determination of every action." Fed. R. Civ. P., Rule 1. These goals are best fostered by allowing the State to exceed the 25 page limit in their memorandum of law, and thereby address all of the various legal issues in one pleading.

6. As the State is moving to intervene, its responsive pleading in this case, the motion to dismiss, is due at the same time as its motion to intervene under Fed. R. Civ. P. 24 (c). Therefore the State was unable to file this request to exceed the page limit in advance, as the State is not currently a party.

7. State counsel contacted counsel for plaintiffs, federal defendants and the school district defendants, all of whom have assented to this request.

8. No memorandum is required as the relevant authority is cited herein and this request is within the discretion of the court.

WHEREFORE, the State respectfully submit that the honorable court:

A. Grant the State's motion for permission to exceed the page limits for legal memoranda;

B. Grant any additional relief as is just and proper.

Respectfully submitted,

STATE OF NEW HAMPSHIRE

By its attorneys,

KELLY A. AYOTTE
ATTORNEY GENERAL

/s/ Nancy J. Smith
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Certification

January 18, 2008

I hereby certify that a copy of the foregoing document was filed electronically and served electronically by operation of the Court's electronic filing system to Michael A. Newdow, Esquire, Rosanna T. Fox, Esquire and Eric B. Beckenhauer, Esquire and conventionally mailed this day to David Bradley, Esquire, Stebbins, Bradley, Harvey, Miller & Brooks, 41 South Park Street, Hanover, NH 03755.

/s/ Nancy J. Smith
Nancy J. Smith

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